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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

E-FILED - 1/26/06

GRACE CUNNINGHAM,

Plaintiff,

v.

JO ANNE B. BARNHART,
 Commissioner of Social Security,

Defendant.

CIVIL NO. 05-03263 RMW

STIPULATION AND ORDER OF REMAND

IT IS HEREBY STIPULATED by the undersigned for the respective parties, subject to the approval of the Court, that this action be remanded to the defendant Commissioner pursuant to sentence four of 42 U.S.C. Section 405(g) for further proceedings. The purpose of the remand is to offer Plaintiff a new hearing and decision.

Upon remand, the Appeals Council will remand this case to an Administrative Law Judge (ALJ) who will be directed to further consider the medical evidence and reconsider whether Plaintiff's alleged mental impairment is severe. The ALJ will obtain additional evidence to clarify the consultative psychiatrist's opinion that, "It is unclear if in fact [the Plaintiff's] mood is currently stable or if in fact she still does go through some cycling" as a result of Bipolar I disorder (Ex. 9F, page 2). The ALJ will also evaluate Plaintiff's subjective complaints in accordance with the

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1 regulations and SSR 96-7p.

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6 Dated: January 13, 2006

/s/
TERRY LAPORTE
Attorney for Plaintiff

9 KEVIN V. RYAN
United States Attorney

13 Dated: January 19, 2006

By: /s/
SARA WINSLOW
Assistant United States Attorney

15 PURSUANT TO STIPULATION, IT IS SO ORDERED that this action is reversed and remanded,
16 pursuant to sentence four of 42 U.S.C. 405(g), to the Commissioner for further proceedings.

21 Dated: 1/26/06

/S/ RONALD M. WHYTE _____
RONALD M. WHYTE
United States District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
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GRACE CUNNINGHAM,

Plaintiff,

v.

JO ANNE B. BARNHART,
Commissioner of
Social Security,

Defendant.

CIVIL NO. 05-03263 RMW

JUDGMENT

IT IS HEREBY ADJUDGED that the agency's final decision is reversed and remanded pursuant to sentence four of 42 U.S.C. § 405(g). The Commissioner of Social Security shall assume jurisdiction to conduct further administrative proceedings as set forth in the parties' Stipulation of Remand, filed herein. This constitutes a final judgment under Fed.R.Civ.Proc. 58.

Dated: 1/26/06

/S/ RONALD M. WHYTE
RONALD M. WHYTE
United States District Judge